



ELBERT COUNTY ZONING REGULATIONS



Part I

Section 1

Title and Authority



PART 1, SECTION 1:

TITLE AND AUTHORITY

A. TITLE

The Elbert County Zoning Regulations and map establishing zoning areas in Elbert County, Colorado, regulating the use of buildings, structures and land; the location, height, bulk and size of buildings, fences and other structures; the lot size and percentage that may be occupied; the size of yards and other open spaces; the density and distribution of population; and providing further a description of certain terms used herein; penalties to be prescribed for the violation of these provisions; procedure for the amendment of these provisions and methods of administration and enforcement to be applied.

B. SHORT TITLE

For the purpose of brevity, these zoning regulations shall hereafter be referred to as the "Elbert County Zoning Regulations".

C. PURPOSE

These regulations shall be for the purpose of promoting the health, safety and welfare of the present and future inhabitants of Elbert County, Colorado, by lessening of congestion in the streets and roads; securing safety from fire and other dangers; providing adequate light and air; classification of land uses and distribution of land development and utilization; protection of the tax base; securing economy in governmental expenditures; fostering the State's agricultural and other industries and the protection of urban and non-urban development.

D. AUTHORITY

The Elbert County Zoning Regulations are authorized by Article 28, Title 30, of the Colorado Revised Statutes (CRS), 1973, as amended, and is hereby declared to be in accordance with all provisions of the Statutes.

E. MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Regulation shall be regarded as the minimum requirements for the protection of the public health, safety and welfare for present and future residents of Elbert County. Residences constructed or located upon lands in unincorporated areas of Elbert County shall meet living area minimum square footage requirements as set forth in Part II, Section 1 of these Regulations.

F. OVERLAPPING REGULATIONS

Except with respect to approved and recorded development guides within Planned



Unit Development (PUD) districts, whenever both a provision of this Regulation, or any provision in any other law, ordinance, resolution, rule or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

G. EXISTING PERMITS, EASEMENTS, DEVELOPMENT GUIDES AND OTHER APPROVALS

The Elbert County Zoning Regulations are not intended to abrogate, annul, govern or prevail over any permits, easements or Development Guides issued prior to the effective date of these Regulations.

H. JURISDICTION

The Elbert County Zoning Regulations shall apply to all properties within the unincorporated area of the County of Elbert, Colorado.

I. FEES

The Board of County Commissioners shall establish and adopt a schedule of fees to be paid by the applicant/developer to defray the expenses of the County in the review and hearing of proposed developments, amendments and adjustments to approved and recorded plans.

J. ZONING AREAS

1. In order to carry out the purpose and provisions of these Regulations, the following zoning areas are hereby established:

a.	A	Agricultural	(60+ Acres)
b.	A-1	Agricultural-One	(MIN 35 Acres)
c.	A-2	Agricultural-Two	(MIN 20 Acres)
d.	AR	Agricultural Residential	(MIN 10 Acres)
e.	RA-1	Residential Agricultural-One	(MIN 5 Acres)
f.	RA-2	Residential Agricultural-Two	(MIN 2.5 Acres)
g.	R1	Residential One	(MIN 1.0 Acres)
h.	R2	Residential Two	(Under 1 Acre)
i.	MF	Multifamily	
j.	MH	Mobile Home Subdivision	
k.	B	Business District	
l.	C	Commercial District	
m.	LI	Light Industrial District	
n.	GI	General Industrial District	
o.	PUD	Planned Unit Development	



2. Where uncertainty exists as to the boundaries of areas shown on a zoning map, the following rules shall apply:
 - a. Boundaries indicated as approximately following the center lines of streets, highways, stream beds, railroad right-of-way or alleys shall be construed to follow such center lines.
 - b. Boundaries indicated as approximately following the right-of-way lines of streets, highways or alleys shall be construed to follow such right-of-way lines, and in event of change in the right-of-way line, shall be construed as moving with the right-of-way line.
 - c. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
 - d. Boundaries indicated as parallel to, or extensions of, features indicated in subsections a. through c. above shall be construed. Distances not specifically indicated on the official zoning area map shall be determined by the scale of the map.
 - e. Where a street or alley is vacated or abandoned the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned street or alley.
 - f. Disputes concerning the exact location of any district boundary line shall be decided by Community and Development Services. Where a lot is divided at the time of enactment of this Regulation, or any subsequent amendment thereto by a zoning area requirement, may be extended not more than twenty-five (25) feet into the more restrictive zoning district adjacent to such line.

K. ZONING MAP

The location of the zoning areas hereby established is shown on the map entitled "Official Zoning Map of Elbert County", dated May 13, 2010 and which were certified per Resolution 10- 54 on August 25, 2010, which is hereby made, along with explanatory matter thereon, a part of this Regulation. The Official Zoning Map, together with each amendment thereto, shall be filed in the office of the Elbert County Clerk; who shall also maintain a current map at all times. All amendments to the map made in conformity with this regulation shall be recorded on the map within thirty (30) days of its adoption, showing general location, effective date, and nature of the change. Unless otherwise specified on the Official Zoning Map, district boundaries shall be construed to lie on the center line of streets or alleys; on lot lines of platted subdivisions; on railroad right-of-way boundaries; on the boundary lines of incorporated areas; or on section lines.

No change shall be made to the Official Zoning Map, except in the manner hereafter set forth. Any unauthorized change to the Official Zoning Map by any person or persons shall be punishable as a misdemeanor and shall receive the same penalty as set forth in Section 1, Item M.



The current Zoning Map and Zoning Regulations will be available to the public in the Elbert County Community and Development Services and should be consulted for zoning information.

L. VIOLATIONS

No land in Elbert County shall be used, nor any building or structure erected, constructed, enlarged, altered, maintained, moved or used in violation of the Elbert County Zoning Regulations or amendments thereto. The Board of County Commissioners, through the County Attorney and court of appropriate jurisdiction, may initiate legal action to prevent, abate or remove such unlawful use, maintenance, erection, construction, reconstruction or alteration, in addition to any other remedies provided by law.

M. PENALTIES

Any person, firm, or corporation, whether as principle agent, employee or otherwise, who violates any of the provisions of this Regulation shall be fined an amount not to exceed one hundred dollars (\$100.00) for each such violation; such fine to inure to the County of Elbert, State of Colorado. Each day of the documented existence of any situation held to be a violation shall be deemed an equal and separate offense.

N. ANY PROVISION DECLARED INVALID

If any provision of the Elbert County Zoning Regulations is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to the legislative intent that:

1. The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and
2. Such decision shall not affect, impair or nullify the Elbert County Zoning Regulations as a whole or any other part thereof, but the rest of these Regulations shall continue in full force and effect.

O. APPLICATION OF ANY PROVISION DECLARED INVALID

If the application of any provision of the Elbert County Zoning Regulation to any lot, building, other structure or tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:

1. The effect of such decision shall be limited to that lot, building, other structure or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of validity was rendered; and



2. Such decision shall not affect, impair or nullify the Elbert County Zoning Regulations as a whole, or the application of any provision thereof, to any other lot, building, other structure or tract of land.

P. REPEALS, EFFECTIVE DATE

1. These Elbert County Zoning Regulations shall repeal all prior versions of the Elbert County Zoning Regulations and any amendments thereto.
2. Repeal of the above-mentioned regulations does not revive other regulations or portion thereof, except for those regulations which have been included and re-enacted as part of this Regulation.
3. Such repeal shall not affect or prevent the prosecution or punishment of any person for the violation of any regulations repealed hereby, for any offense committed prior to the repeal.
4. These Regulations shall become effective on the date of adoption. Notice of public hearing hereon was advertised in the Ranchland News, Simla, Colorado, on August 5, 2010.

Public hearing held on August 25th, 2010, pursuant to said notice.

These Regulations were adopted the 25th day of August, 2010.

Board of County Commissioners of the County of Elbert, Colorado.

Q. AMENDMENTS

1. Amendments to the Elbert County Zoning Regulations were made on the dates listed below and are included in these Zoning Regulations.



Part I

Section 2

Planning Commission

PART I, SECTION 2:

PLANNING COMMISSION

A. INTENT

The purpose of the Planning Commission, hereby created, shall be to review all land use applications before submission of same to the Board of County Commissioners and make formal recommendations based on the terms of the Elbert County Zoning Regulations, as well as any related regulations or plans.

B. POWERS OF THE PLANNING COMMISSION

The Planning Commission shall have power, except otherwise provided by law:

1. To make and recommend a County Master Plan.
2. To review and approve conceptual plans, when applicable.
3. To review and make recommendations to the Board of County Commissioners for amendments to the Elbert County Zoning Regulations.
4. To review and make recommendations to the Board of County Commissioners for rezoning of land.
5. To review and make recommendations to the Board of County Commissioners for preliminary plans.
6. To review and make recommendations concerning any other matters which may be submitted to it by the Board of County Commissioners.

C. GENERAL PROVISIONS

1. The Board of County Commissioners of Elbert County shall appoint a Planning Commission consisting of nine (9) voting members. Each member of the Planning Commission shall be a resident of the County. The term of appointed members of the Planning Commission shall be three (3) years, and until their respective successors have been appointed. The terms of office shall be staggered, by making the appointments so that approximately one-third (1/3) of the member's terms expire each year. A quorum shall consist of five (5) members, with a majority or simple vote to carry.
2. Any member of the Planning Commission may be removed for non-performance of duty or misconduct by the Board of County Commissioners. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.
3. The Planning Commission shall receive reasonable compensation by Elbert County, not to exceed thirty dollars (\$30.00) per meeting and reimbursement for mileage for attending official and special meetings.



4. The Planning Commission shall elect from its members a Chairperson and Vice-Chairperson whose terms shall be for one (1) year. Other positions may be created by the Planning Commission when needed.
5. The Planning Commission shall adopt such rules and regulations governing its proceedings as it may consider necessary or advisable. Such rules and regulations shall be consistent with the guidelines of this Section and appropriate State Statutes.
6. The Planning Commission shall meet at least once each month to review and process applications and other requests submitted to the Planning Commission. All meetings shall be open to the public. An agenda of items shall be made available to the public at the Elbert County Community and Development Services Offices before the meeting.
7. The Planning Commission may call special meetings for special projects or other important topics for review, discussion or recommendation. Alternate hearing dates due to weather conditions or other scheduling difficulties may be considered by the Chairperson of the Planning Commission.
8. A quorum shall be five (5) members of the Planning Commission. No meetings shall be held unless a quorum is present. In the absence of a quorum, any convened meeting shall be terminated by the presiding members within a reasonable time after gathering.

A majority vote of the voting members present is required for a recommendation or determination. In the event of a dissenting vote by one (1) or more members of the Planning Commission, a roll call vote shall be recorded in the minutes of the meeting.

9. A secretary to the Planning Commission shall be appointed by the Community and Development Services Director from Community and Development Services to be present at all regular and special meetings of the Planning Commission. The secretary shall take the minutes of the meetings in an appropriate manner approved by the Planning Commission. The minutes shall be made a matter of public record within a practical time after the official meeting of the Planning Commission and will be available at Community and Development Services. Anyone wishing to have a transcript of the proceedings may have a court reporter present at their own expense.
10. The Community and Development Services Director shall serve as advisor to the Planning Commission on all planning and zoning matters brought to their attention, and be responsible for scheduling all Planning Commission meetings in accordance with the guidelines established by the Planning Commission. The Community and Development Services Director or his authorized representative, shall represent the Planning Commission at official meetings at which the Planning Commission's recommendation(s) or opinions are so solicited, inclusive of, but not limited to, meetings before the Board of County Commissioners, regional planning advisory meetings and at such other times as approved by the Planning Commission.



The Community and Development Services Director shall conduct research, report preparation or other tasks as assigned by the Planning Commission on land use matters or contract for technical assistance in the preparation of information for use by the Planning Commission or the Board of County Commissioners in the review and processing of land use and zoning requests.

The Community and Development Services Director shall serve as the administrative office for the Planning Commission and be available for assisting any Planning Commission member in provision of secretarial or other services as needed.

D. REVIEW AND RECOMMENDATION PROCEDURE

1. The Planning Commission shall review responses from referral agencies, staff comments and recommendations and the proposal submitted by the applicant on planning or zoning matters and recommend one of the following:

- a. Approval of the proposal without conditions.
- b. Conditional Approval of the proposal indicating for the record what condition(s).
- c. Denial of the proposal indicating for the record the reason(s) for the recommendation of denial.
- d. Continuing the Request until a further regularly scheduled meeting in order to obtain more information and help clarify the request before them.

No continuance shall exceed six (6) months unless a written request is received and approved by the Planning Commission prior to the expiration of this continuance.

2. The Board of County Commissioners shall review the application proposal, responses from referral agencies, staff comments and the Planning Commission recommendation and shall make one of the following decisions regarding the application:

- a. Approval of the proposal without conditions.
- b. Conditional Approval of the proposal indication for the record what condition(s).
- c. Denial of the proposal indicating for the record the reason(s) for denial.
- d. Continuing the request until a further regularly scheduled meeting in order to obtain more information and help clarify the request before them.

The Board of County Commissioners may continue the matter for submission of additional information if they determine that additional information is required or remand the matter to the Planning Commission for further review if the Board of County Commissioners makes any recommendation toward substantial change in the proposal as submitted by the Planning Commission.



Part I

Section 3

Board of Adjustments



PART I, SECTION 3:

BOARD OF ADJUSTMENTS

A. INTENT

The purpose of the Board of Adjustments hereby created, shall be to provide for, in appropriate cases and subject to additional conditions and safeguards, the ability to make special exceptions to the terms of the Elbert County Zoning Regulations in conformance with its general purpose and intent.

B. POWERS AND DUTIES OF THE BOARD OF ADJUSTMENTS

The Board of Adjustments has the following powers:

1. To hear and act upon requests for a variance to the:
 - a. Minimum area of lot;
 - b. Minimum width of lot;
 - c. Maximum height of structures and fences;
 - d. Minimum front yard;
 - e. Minimum side yard;
 - f. Minimum rear yard;
 - g. Minimum off-street parking requirements; and/or
 - h. Such variances as may be deemed necessary by the Board of County Commissioners where, by reason of exceptional shape, size, topography of the lot, condition of the building or land, practical difficulty or unnecessary hardship would result to the owner of said property from a strict application or enforcement of the Elbert County Zoning Regulations.
2. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency, or to decide in the favor of the appellant.
3. No variance shall be granted by the Board of Adjustments when, in the opinion of said Board, the applicant has not provided reasonable and adequate evidence justifying the request presented, or when the request is determined to be a self-imposed hardship which can be rectified by means other than a variance.

C. GENERAL PROVISIONS

1. The Board of County Commissioners of Elbert County shall appoint a Board of Adjustments consisting of five (5) voting members. Not more than half of the members of such Board may at any time be members of the Planning Commission. Each of the members of the Board of Adjustments shall be a resident of the County. The term of appointed members of the Board of Adjustments shall be three (3) years and until their respective successors have been appointed. The terms of office shall be staggered by making the appointments so that at least one (1) member's term will expire each year.



2. The Board of County Commissioners may appoint two (2) associate members to the Board of Adjustments. Each associate member shall be a resident of the County. In the event that any regular member of the Board of Adjustments is temporarily unable to act, due to absence from the County, illness, interest in a matter before the Board of Adjustments, or any other cause, that member's place may be taken during such temporary disability by the most senior associate member present based upon length of service.
3. Any member of the Board of Adjustments may be removed for non-performance of duty or misconduct by the Board of County Commissioners. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.
4. The Board of Adjustments shall receive reasonable compensation by Elbert County not to exceed thirty dollars (\$30.00) per meeting plus mileage for attending official and special meetings.
5. The Board of Adjustments shall elect from its members a Chairperson and a Vice-Chairperson whose term shall be for one (1) year. Other positions may be created by the Board of Adjustments when needed.
6. The Board of Adjustments shall adopt such rules and regulations governing its proceedings as it may consider necessary or advisable, such rules and regulations shall be consistent with the guidelines of this Section and appropriate State statutes.
7. The Board of Adjustments shall meet as often as necessary to hear and act upon applications and other appropriate requests submitted.
8. The Board of Adjustments may call special meetings for special projects and other important topics for review, discussion and/or recommendation. Alternate hearing dates due to weather conditions and other scheduling difficulties may be considered by the Chairman of the Board of Adjustments.
9. A secretary shall be provided by Community and Development Services to the Board of Adjustments and shall be present at all regular and special meetings of the Board of Adjustments. The minutes shall be made a matter of public record within a practical time after the official meeting of the Board of Adjustments and will be available at Community and Development Services. Anyone wishing to have a transcript of the proceedings may have a court reporter present at their own expense.

D. PROCEDURE FOR A VARIANCE

1. The applicant shall discuss the variance request informally with the Community and Development Services Director to learn what materials and what steps are necessary for the application.



2. A formal application shall be submitted to the Community and Development Services Director and shall consist of the following:
 - a. A completed application form;
 - b. Proof of ownership of the land on which the appeal is requested;
 - c. Application fee - see current fee schedule; and
 - d. If applicable, a site plan indicating what the variance is or where it will be on the affected property. Such plan shall be drawn to scale and include the height and setbacks of all existing and proposed structures, and any other information requested by the Community and Development Services Director, when applicable to the request.
3. Community and Development Services Staff shall review the variance application within ten (10) working days and schedule the request before the Board of Adjustments when it determines that the application is complete.
4. A Community and Development Services Planner shall submit the application to the appropriate referral agencies for review. The prescribed time limits for review of a variance application shall not exceed thirty (30) days.
5. At least thirty (30) days prior to a public hearing before the Board of Adjustments, notice of hearing shall be published in a newspaper of general circulation in Elbert County at least once. Publication of said notice shall be the responsibility of the applicant and shall read as follows:

"NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT"

"Variance from ____ feet to ____ feet for ____ setback"

"Notice is hereby given that on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M./P.M.), or as soon as possible thereafter, in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado, or at such other time and place as this hearing may be adjourned, Board of Adjustment public hearing will be held upon the application on file with the Elbert County Community and Development Services, 215 Comanche Street, Kiowa, Colorado 80117, Telephone: 621-3136, by _____ (name of applicant) for a variance pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately _____ (distance and direction from nearest major intersection)."

Project Name and Number:

Legal Description of Property:

Reason:

Date of Application:

Published In: _____ (name of newspaper),
_____ (date of Publication).

*Publishers affidavit verifying the above publication shall be submitted to Community and Development Services at least five (5) working days prior to the public hearing.

6. At least thirty (30) days prior to the day of the public hearing before the Board of Adjustments, the applicant shall mail a notice of said hearing by Certified Mail, Return Receipt requested, to owner(s) of property adjacent to, and within thirteen hundred twenty feet (1320') of, the property under consideration for the Variance and to the mineral right's owners and lessees and easement holders, as shown in the records of the office of the Elbert County Assessor.
7. At least twenty-four (24) days prior to the day of the public hearing before the Board of Adjustments, the applicant shall submit to Community and Development Services, the following: the white postal receipts for Certified Mail mailed to the adjacent property owners and the property owners within thirteen hundred twenty feet (1320') of the proposed site as required by these Variance Procedures and requirements; a copy of the note mailed to said property owners; and a list, in alphabetical order, of the adjacent property owners and a map illustrating the location and proximity of the adjacent property owners and property owners within thirteen hundred twenty feet (1320') of the proposed site.

At least five (5) working days prior to the date of the Public Hearing before the Board of Adjustments, the applicant shall submit to Community and Development Services, the green postal Domestic Return Receipts mailed to the adjacent property owners and property owners within thirteen hundred twenty feet (1320') of the proposed site as required by these Variance Procedures and Requirements.

8. The applicant shall also be required to post notice on the property for which the variance is requested at least thirty (30) days prior to the day of the public hearing before the Board of Adjustment. Such notice shall consist of at least one (1) sign facing parallel to each adjacent right-of-way. Such sign(s) shall measure not less than four feet by four feet (4' x 4'), size of letters shall be a minimum of three (3) inches high and such signs shall be erected no further than ten (10) feet beyond the edge of the adjacent right-of-way, on posts which shall locate the bottom of the sign no less than three (3) feet above the ground. All signs shall be clearly legible to persons on the adjacent right-of-way and shall be completed and installed in a neat and professional manner. All signs shall be visible and legible throughout the entire period, and shall read as follows:

"NOTICE OF PUBLIC HEARING"

"Variance from _____ feet to _____ feet for _____ setback."

"Notice is hereby given that the property upon which this sign is posted shall be considered for a change in _____ from _____ to _____ pursuant to the current Elbert County Zoning Regulations. Further information may be obtained by calling Community and Development Services at 621-3136. The public hearing is to be held on _____ (day of week), _____ (month) _____ (year), at _____ (time AM), or as soon as possible thereafter. Said hearings to be held in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado."

Name of Proposal:

Project Number:

Date of Posting:

9. Signs advertising the variance in Elbert County must be photographed and submitted to the applicant's file in Community and Development Services per the following form:

(ATTACH PHOTO HERE)

The above sign was posted on _____, pursuant to the current Elbert County Zoning Regulations by _____ (name of applicant).

Project Name and Number:

Signature of Applicant/Representative:

Signed and sworn before me this date:

NOTARIZED BY:

Project Review:



Further requirements include:

- a. Notarized affidavit verifying the date of the sign posting required at least thirty (30) days prior to the Board of Adjustments hearing date.
 - b. This affidavit must be submitted to Community and Development Services at least twenty-four (24) days prior to the Board of Adjustments hearing date.
10. As part of the variance process, all work on the structure(s) involved must cease immediately. Failure to stop building will result in an automatic denial of the variance.
 11. Appeal on any action (other than continuance) of the Board of Adjustment is to the District Court in and for Elbert County. Such appeal must be filed within thirty (30) days of the date the Board of Adjustments took action.

E. ADMINISTRATIVE VARIANCE

The Community and Development Services Director, or person designated from Community and Development Services by the Community and Development Services Director, shall have the ability to grant an Administrative Variance.

Per Resolution 94-252, approved December 21, 1994, the Administrative Variance provisions shall be invoked only in cases where the applicant can demonstrate that their request is minor in nature and meets the threshold/criteria established below and within Part I, Section 3 (E).

1. The Community and Development Services director may grant an Administrative Variance, upon prior approval by the Board of County Commissioners, for those items listed in Part I, Section 3(B)(1)a, et seq., where the total encroachment/adjustment does not exceed 15%. If the Board of County Commissioners recommends that an applicant proceed through the discretionary variance process, this Administrative Variance procedure shall not be used.
 2. A decision by the Community and Development Services director to deny such Administrative Variance request may be appealed to the Board of Adjustments in accordance with Part I, Section 3(E)(g) of the Zoning Regulations.
1. Procedure
 - a. The applicant shall discuss the variance request informally with Community and Development Services to learn what materials and what steps are necessary for the application:
 - b. A formal application shall be submitted to Community and Development Services and shall consist of the following:
 - 1) Completed application form.

- 2) Proof of ownership of the land on which the appeal is requested.
 - 3) Application fee - see current fee schedule.
 - 4) A site plan indicating what the variance is and where it will be on the affected property. Such plan shall be drawn to scale and include the height and setbacks of all existing and proposed structures.
 - 5) Any other information Community and Development Services may deem necessary.
- c. Community and Development Services shall review the variance application and conduct a site inspection within ten (10) working days.
- d. Upon receiving notification by Community and Development Services that the application is complete, the applicant shall mail the following notice by certified return receipt mail to owners of property adjacent to, and within thirteen hundred twenty feet (1320'), of the property and to the mineral right's owners and lessees and easement holders, as shown in the records of the Office of the Elbert County Assessor. The notice shall be mailed at least fifteen (15) days prior to the action date.
- e. As part of the administrative variance process, all work on the structure(s) involved must cease immediately. Failure to stop building will result in an automatic denial of the administrative variance.

"NOTICE OF PUBLIC HEARING BEFORE THE ADMINISTRATIVE VARIANCE HEARING OFFICER"

"Variance from ____ feet to ____ feet for ____ setback."

"Notice is hereby given that on ____ (day of week), ____ (month) ____ (year), at ____ (time A.M./P.M.), or as soon as possible thereafter, the Community and Development Services Director will act upon the Administrative Variance application on file with Elbert County Community and Development Services, 215 Comanche Street, Kiowa, Colorado 80117, Telephone: 621-3136, by ____ (name of applicant) for a Variance pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately ____ (distance and direction from nearest major intersection. Any comments must be submitted in writing to Elbert County Community and Development Services, P.O. Box 7, Kiowa, CO 80117, by ____ (date)."

Project Name and Number: _____

Legal Description of Property: _____

Reason for Variance: _____

Date of Application: _____

- e. At least five (5) days prior to the action date the applicant shall submit to Community and Development Services:
- 1) The white postal receipts from the notices mailed.
 - 2) A copy of the notice mailed.
 - 3) An alphabetical list and a map illustrating the location and proximity of owners of property adjacent to, and within thirteen hundred twenty feet (1320') of the



- property under consideration.
- f. On the action date a public hearing will be conducted by a designated Administrative Variance Hearing Officer and a Secretary.
 - g. By the action date the applicant must submit to Community and Development Services the green postal receipts.
 - h. Any party wishing to object to the decision made by the Community and Development Services Director, or designated Administrative Variance Hearing Officer, shall file their objection(s) within fifteen (15) days from the action date to Community and Development Services. The letter of appeal will be submitted to the Board of County Commissioners at their first available scheduled meeting after receipt of the letter. The Board of County Commissioners will consider the appeal and make a decision based on their best judgment.



Part I

Section 4

Amendments to the Elbert County Zoning Regulations



PART I, SECTION 4: AMENDMENTS TO THE ELBERT COUNTY ZONING REGULATIONS

A. INTENT

Amendment shall mean a revision to the Elbert County Zoning Regulations. Amendment requests may be initiated, in writing, by the Board of County Commissioners, the Planning Commission, the Board of Adjustments or Community and Development Services.

B. PROCEDURE

1. Community and Development Services shall be responsible for processing all amendment requests.
2. Any amendment(s) proposed shall be submitted to the Planning Commission for its review and recommendation prior to any action at a public hearing by the Board of County Commissioners.
3. In addition to amendments processed throughout the year, Community and Development Services shall review the Zoning Regulations once a year to determine appropriate amendments as necessary.

C. PROCESSING

1. Community and Development Services, following a recommendation by the Planning Commission, shall submit the proposed amendment(s), in writing, and shall schedule a public hearing before the Board of County Commissioners subject to the required Notice of Hearing outlined in Subsection D of this Section 4.
2. If the proposed amendment(s) is(are) approved by the Board of County Commissioners, it shall become effective on that date. A certified copy of the regulation containing the text of the amendment shall be forwarded to the Planning Commission Secretary.
3. Community and Development Services shall insert said amendment in all official copies of the Zoning Regulations of Elbert County.

D. NOTICE OF HEARING

1. At least thirty (30) days notice of the time and place of public hearing before the Board of County Commissioners shall be given in at least one (1) publication of a newspaper of general circulation in Elbert County. The notice shall read as follows:



"NOTICE OF PUBLIC HEARING"

"Notice is hereby given that on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M.), or as soon as possible thereafter, in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado, or at such other time and place as this hearing may be adjourned, a public hearing will be held for a proposed amendment to the Elbert County Zoning Regulations on file with Elbert County Community and Development Services, 215 Comanche Street, Kiowa, Colorado 80117, Telephone: 621-3136."

Date of Application: _____

Date of Publication : _____



Part I

Section 5

Non Conforming Uses



PART I, SECTION 5:

NONCONFORMING USES

A. NONCONFORMING LOTS

1. In any areas in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot which was of record before these regulations were adopted or amended. This provision shall apply even though such lots fail to meet the requirements for area, width, or both, that are applicable in the given area. However, all minimum yard requirements shall conform to the provisions within these regulations and amendments for the area.

B. NONCONFORMING USES OF LAND

A use of land which was lawful before these regulations were adopted or amended may continue to exist even though the use would be prohibited, regulated or restricted under the provisions of these Regulations and amendments, subject to the following provisions:

1. Such nonconforming use of land shall not be enlarged, expanded, extended, increased nor moved to occupy an area of land which was not occupied before these Regulations were adopted or amended.
2. If any such nonconforming use of land is discontinued for any reason for a period of more than six (6) months, a subsequent use of such land shall conform to the provisions of these regulations and amendments.
3. Any additional structures shall conform to the Elbert County Zoning Regulations and amendments.

C. NONCONFORMING STRUCTURES

A structure which was lawful before the Elbert County Zoning Regulations were adopted or amended, may continue to exist, even though the structure would be prohibited, regulated or restricted under the provisions of these regulations or amendments, subject to the following provisions:

1. Such nonconforming structures shall not be enlarged or altered in a manner which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structures, or positions thereof, be damaged or destroyed by any means, or declared unsafe by the County Building Department to an extent of more than fifty percent (50%) of the original structure, it shall not be reconstructed except in conformity with the Regulations of the Elbert County Building Department. If reconstruction of the building does not exceed fifty percent (50%) of the original structure, the structure may be strengthened or restored to a safe condition provided the original nonconformity is not enlarged, increased or extended and the construction is commenced within ninety (90) days, providing the new building complies with the UBC.



3. Historic Buildings

Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to all the requirements of the Uniform Building Code when authorized by the Building Official, provided:

- a. The building or structure has been designed by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.
- b. Any unsafe conditions as described in the Uniform Building Code are corrected.
- c. The restored building or structure will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

4. Should such nonconforming structures be moved for any reason for any distance whatsoever, it shall conform to the provisions of the zoning area in which it is located after the move.

D. NONCONFORMING USES OF STRUCTURES

A use of structures which was lawful before these regulations were adopted or amended, may continue to exist even though the use would be prohibited, regulated or restricted under the provisions of these regulations or amendments, subject to the following provisions:

1. Existing structures devoted to a nonconforming use shall not be enlarged, expanded, extended nor altered to accommodate nonconforming uses or other uses not allowed in the zoning area in which the structure is located.
2. A nonconforming use may be extended throughout the same structure if no structural alteration of such structure is proposed or made for the purpose of such an extension, provided a conforming use is not displaced.
3. If a permitted use supersedes a nonconforming use in all or part of an area in a structure, that area shall thereafter conform to the provisions of the Elbert County Zoning Regulations and Amendments.
4. When a nonconforming use of a structure is discontinued or abandoned for six (6) months, any subsequent use of such structure shall conform to the provisions of the Elbert County Zoning Regulations and Amendments.
5. All buildings or structures regulated by the Uniform Building Code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment, is for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are



supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Uniform Building Code, are hereby designated as unsafe building appendages. All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth below.

E. TERMINATION OF NONCONFORMING USES

The Board of County Commissioners may require the termination of a nonconforming use, subject to the following provisions:

1. The Board of County Commissioners may initiate a public hearing through Community and Development Services on their own or upon the recommendation of the Planning Commission and/or Board of Adjustments.
2. Community and Development Services shall schedule meetings before the Planning Commission and/or the Board of Adjustments and the Board of County Commissioners.
3. At least thirty (30) days prior to the Board of County Commissioners hearing, a notice of public hearing will be published by the County in at least one (1) issue of a newspaper of general circulation in Elbert County, Colorado. Said notice shall read as follows:

"NOTICE OF PUBLIC HEARING"

"Notice is hereby given that on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M.), or as soon as possible thereafter, in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado, or at such other time and place as this hearing may be adjourned, a public hearing will be heard upon the application on file with Elbert County Community and Development Services, 215 Comanche Street, Kiowa, Colorado, 80117, Telephone: 621-3136, for a proposed termination of nonconforming use located approximately, _____ (distance and direction from nearest major intersection)."

Legal Description: _____
Published In: _____ (name of newspaper),
_____ (date of Publication).

4. At least fourteen (14) days prior to the public hearing before the Board of County Commissioners, Community and Development Services shall mail a notice of said hearing by Certified Mail, Return Receipt Requested to the property owner of affected property and owners of property adjacent to, and within thirteen hundred twenty feet (1320') of the property under consideration as shown in the records of the Office of the Elbert County Assessor.



5. Community and Development Services shall notify the affected property owner, in writing, within ten (10) working days of the Board of County Commissioners hearing, stating the action on the proposed termination of use.
6. If the proposed termination of a nonconforming use is approved by the Board of County Commissioners, the said use may be continued for a period of time, to be determined at the hearing, but not to exceed two (2) years from the date of approval, after which time the said nonconforming use shall cease.



Part I

Section 6

Rezoning Procedures and Requirements



PART I, SECTION 6:

REZONING PROCEDURES AND REQUIREMENTS

A. INTENT

To provide for the orderly, well-informed, properly planned transition of historic land uses within Elbert County to those deemed more desirable or necessary to accommodate residential, commercial, business and industrial growth for the present and future citizens of Elbert County.

B. REZONING PROCEDURE AND SUBMITTAL REQUIREMENTS

Rezoning shall mean a revision to the zoning. Rezoning requests which do not incorporate within them a proposed use or uses, shall not be considered by the County due to lack of important planning data such as water availability, traffic impacts and environmental considerations. Rezoning applications involving 8 or more lots shall be considered only as a PUD and are subject to Elbert County Site Design Standards. Elbert County Site Design Standards are included within the Elbert County Zoning Regulations. (Included in Part II Section 16). Rezoning requests may be initiated by the Board of County Commissioners, Planning Commission, Board of Adjustments or the owner of the parcel of land in question.

1. REZONING REVIEW PROCEDURE

The following steps shall be involved in a rezone review process:

- a. Pre-Application Meeting – This process was developed to improve communication between the applicant and County staff. The intended result is a more efficient application review process. Community & Development Services should be contacted for submittal requirements. A Case Planner will be assigned after the Pre-Application Meeting is held.
- b. Community Meeting - Applicants are required to conduct a community meeting prior to submitting a formal rezoning application. This meeting must be conducted in the general vicinity of the property involved in the rezoning application and serves to provide a forum for information exchange between applicants and citizens. By conducting the community meeting prior to the formal application submittal, it is anticipated that applicants will be able to address community concerns and incorporate community input in the formal application. The presentation at the community meeting is the responsibility of the applicant. A Case Planner will attend the meeting to address procedural matters only. The applicant will be responsible for notifying adjacent property owners within 1,320 feet of the subject property boundary at least fourteen (14) days prior to the community meeting. The subject property must be posted a minimum of ten (10) days prior to the community meeting to inform citizens in the immediate area of the community meeting. Signage location, format, and language will be provided to the applicant by Community & Development Services.

- c. Two Copy Submittal -- Applicants shall meet with a Case Planner to submit two copies of each item that is required to be submitted for the formal application. Case Planner will conduct a review of the information to check for completeness and adequacy. Once the Case Planner determines that the items are complete and adequate, the applicant may proceed with the formal rezoning application submittal.
- d. Formal Rezoning Application Submittal -- The applicant shall submit the completed application, fees, and required support documents in quantities identified by the Case Planner. The Case Planner will review the submittal package for completeness. A submittal package that is not complete in terms of type, quantity, and adequacy of required documents will not be accepted for review. The Case Planner will refer the application and support documents to County Departments and other referral agencies as identified by the Case Planner.
- e. County and Referral Agency Response -- The referral agencies will respond in writing to the applicant's submittal. The Case Planner will collect all referral comments.
- f. Provide Comments to the Applicant -- A summary of staff comments inclusive of other departments and agency responses will be forwarded to the applicant. A meeting between the Case Planner and the applicant may be held to review the referral responses. The applicant may also meet directly with the agency or agencies that have expressed concerns with the application. The Case Planner should be included in any meetings with referral agencies.
- g. Applicant Responds to Comments -- The applicant shall address, in writing, all issues and deficiencies identified by the Case Planner, any other County departments, and any referral agency. To continue the process in a timely manner, the applicant must complete the requested revisions and resubmit appropriate documents for a second review by the Case Planner, other County departments, and any applicable outside agencies as quickly as possible. If there is no written response to staff comments within sixty (60) calendar days after referral comments are provided to the applicant, the application will be considered withdrawn and the application fees forfeited. The applicant will then need to file a new application with the required fees and documents. The Community & Development Services Director may extend this sixty (60) day maximum response deadline for an additional sixty (60) day period, upon written request by the applicant, if, in his or her opinion the delay in response is justifiable. Any additional time required for the response deadline, beyond that granted by the Community & Development Services Director, shall require approval by the Board of County Commissioners.
- h. Staff Review of Revised Submittal and Pre-Hearing Meeting -- At the time of re-submittal of the revised information, the applicant may arrange a pre-hearing meeting with the Case Planner. The pre-hearing meeting is an opportunity for the applicant to receive additional input and explore alternatives with the Case Planner. This input may include re-stating the already established position of staff in regard



to the proposal and/or a discussion of steps involved in completing the proposal. Additional review fees may be charged for re-submittals that do not address previously red-marked prints, comments, and recommendations. Additional fees may also be charged for re-submittals that include new changes that are not in response to staff or referral agency red-marked prints, comments, and recommendations. If there is no written response by the applicant within sixty (60) calendar days of the date that the applicant was forwarded staff comments, the application will be considered withdrawn and the application fees forfeited. The applicant will then need to file a new application with the required fees and documents. The Community & Development Services Director may extend this sixty (60) day maximum response deadline for an additional sixty (60) day period, upon written request by the applicant, if, in his or her opinion the delay in response is justifiable.

- i. Public Hearing Documents Submittal – At such time as the Case Planner deems the application ready for public hearings, or the applicant advises the Case Planner in writing that no further revisions will be made, and the applicant desires to proceed to the Planning Commission and Board of County Commissioners’ public hearings, the applicant shall submit all documents requested by Case Planner necessary for the public hearings.
- j. Planning Commission and Board of County Commissioners’ Public Hearings Scheduled – Following the submittal of all required public hearing documents, the Case Planner will schedule Planning Commission and Board of County Commissioners’ public hearing dates and notify the applicant in writing of the assigned dates. The Board of County Commissioners public hearing shall be a minimum of 21 days after Planning Commission recommendation.
- k. Public Hearing Notification – The applicant will be responsible for preparing and posting the “Notice of Public Hearing” sign on the subject property, preparing and publishing the “Notice of Public Hearing” in a newspaper of general circulation, and mailing the “Notification of Adjacent Property Owners” letters, per the requirements of Part I, Section 6, “Rezoning Procedures and Requirements” section of these regulations.
- l. Planning Commission Public Hearing – The Planning Commission shall review the request, staff report, other evidence, and public testimony. The Planning Commission shall recommend approval, conditional approval, or denial of the rezoning to the Board of County Commissioners. The Planning Commission may continue a request for a period of time not to exceed six (6) months from the completion of the presentation by the applicant at a public hearing.
- m. Board of County Commissioners’ Public Hearing – The Board of County Commissioners shall review the request, staff report, other evidence, and public testimony at one or more public hearings. Upon conclusion of the presentation of testimony and evidence in the hearing(s) before the Board of County Commissioners, the Board may render a decision which approves, conditionally



approvals, or denies the rezoning application; unless the Board continues the case for further testimony and/or decision for a period of time not to exceed six (6) months from the date of the scheduled hearing.

- n. Recordation of the Rezone Exhibit – Not more than one hundred eighty (180) days after approval of the Zoning change, the applicant shall **complete the “conditions of approval”** for recording. The mylars will include a sign-off for Elbert County Engineering, Community Development Services, Planning Commission, Board of County Commissioners and Elbert County Clerk & Recorder. If the plat is not ready for sign-off within the one hundred eighty (180) day period, the Zoning change approval shall automatically be rescinded as of the last day of the one hundred eighty (180) day period.

If the Zoning change will not be ready for recording within the one hundred eighty (180) day period, the applicant may make written request, (prior to the 180th day), to the Director of Community & Development Services for an extension of ninety (90) days in which to satisfy / complete the “conditions of approval” for recording, showing good and just cause for the need of said extension. If granted, the applicant shall have an additional ninety (90) day period in which to complete the “conditions of approval.”

If the “conditions of approval” are not completed for recording during the ninety (90) day extension period, the Zoning change approval shall automatically be rescinded as of the last day of the extension period. (270th day)

Upon written request within thirty [30] days of the original or extended expiration date by the applicant, the Board of County Commissioners may reinstate the Zoning change, however, the Zoning change **will now be subject to a reinstatement fee equal to at least one half the original “BASE” fee and concurrence with any Master Plan updates and regulation updates that may have occurred since the project was initiated.**

The applicant, at this point, shall be required to resubmit the Zoning change to the Planning Commission and Board of County Commissioners for approval at duly noticed public hearings. Written justification for failure to complete the “conditions of approval,” must accompany the resubmitted Zoning change, and will be taken into account at the hearings. Following expiration of the reinstatement period, only a new application and new fees would be accepted for processing.



2. SUBMITTAL REQUIREMENTS

The following materials shall be submitted for Rezoning applications. Initially, two hard copies and one digital copy of each document shall be submitted by the applicant for review by Community & Development Services. At such time as the documents are deemed adequate by the reviewing Case Planner, additional copies will be requested by the assigned Case Planner. The Director of Community & Development Services (Planning Director) may waive or alter any of these requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

- a. Land Use Application Packet
 - Completed application form (provided by Community & Development Services) with original signatures and notary public seal.
 - Cover Letter – Which includes the name, address, and phone number of the property owner and representative; and a brief description of the proposal.
 - Disclosure Letter (provided by Community & Development Services) with original signatures and notary public seal
 - Application Agreement Form (provided by Community & Development Services) with original signature from the applicant or the applicant's authorized representative.
 - Statement of Taxes – Proof of taxes current as of land use application submittal date.
- b. Proof of ownership – copy of a recorded deed or title policy
- c. Fees – The application submittal must be accompanied by the appropriate fees. The costs of consultant and referral agency review are the responsibility of the applicant. The County will require payment of County consultant review fees, based upon estimated consultant review costs, at the time of application. These costs are in addition to the application fees.
- d. Development Guide (**For PUD Zoning only**) – (see Part II, Section 16 Planned Unit Development Zone District-PUD)
- e. Rezone Exhibit – All sheets shall be in 24" X 36" format. The following information and standards shall apply to the Rezone Exhibit:
 1. A margin, at least 1" on all sides, except the left-hand margin shall be a minimum of 2";
 2. The name of the Rezone Exhibit, centered on the upper portion of each sheet;



3. The sheet number in the lower right hand corner of each sheet (Sheet 1 of _____);
4. Case # _____ in the upper right corner of each sheet;
5. Rezone Exhibit notes and information shall be included on the first sheet of the Rezone Exhibit, with lettering being a minimum font size of 12 point. (Note: For processing purposes, the textual information may be prepared on 8 1/2 "X 11" paper format);
6. Legal Description - A legal description of the property designated as a lot, block, or tract on a recorded plat or a metes and bounds description;
7. Vicinity Map - Vicinity map shall be provided that locates the parcel in the County. The vicinity map shall clearly show the boundaries of the subject property, major roads within 2 miles of the subject property and the proposed access to the property;
8. Names, addresses, and phone number of owner, representative, and individual/firm preparing the document;
9. Site Plan - Shall include information regarding the layout of proposed land use areas; buildable and non-buildable areas, hazard areas, open space, easements (indicate Reception # and Book Number and Page Number, if applicable), etc;
10. The following signature blocks shall be included on the Rezone Exhibit:

Community and Development Services

This Rezone Exhibit was reviewed and approved by Community and Development Services on the _____ day of _____, year _____, A.D.

Community and Development Services Director

Planning Commission

This Rezone was reviewed by and recommended for approval by the Elbert County Planning Commission on the _____ day of _____, year _____, A.D.

Chairman, Planning Commission



Board of County Commissioners

This Rezone was reviewed and approved by the Elbert County Board of
County Commissioners on the _____ day of _____, year _____, A.D.

Chairman, Board of County Commissioners

Clerk and Recorder's Certificate

I hereby certify this Rezone Exhibit was filed in my office on this day of
_____, in the year _____, A.D. at _____ A.M. / P.M. and was
recorded at Reception Number _____.

County Clerk and Recorder

Owner's Certificate:

(Use the appropriate certificate for an individual owner, multiple owners, or
corporation)

(Individual)

I, _____, as owner of the land affected by this
Rezoning, accept and approve all conditions set forth herein.

Owner: _____

Date: _____
(Signature)

(Name Printed)



(Multiple Owners)

We, _____ and _____, as owners of the land
affected by this Rezoning, accept and approve all conditions set forth herein.

Owners: _____
(Signature)

Date: _____

(Name Printed)

(Signature)

Date: _____

(Name Printed)

(Corporation)

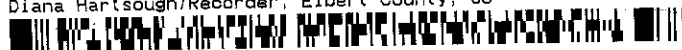
_____, as owner of the land affected by this
Rezoning, accept and approve all conditions set forth herein.

_____ as president of _____
(Name Printed) _____
(Signature)

Date: _____

_____ as secretary of _____
(Name Printed) _____
(Signature)

Date: _____



NOTARY PUBLIC:

County of _____)
) ss
State of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__.

By: _____
(Signature)

(Name Printed)

WITNESS my hand and official seal
My commission expires: _____

11. Standard Flexibility Statement (to be included on the first page of the Rezone Exhibit):

"The graphic drawings contained within this Rezone Exhibit are intended to depict general locations and illustrate concepts of the textual provisions of this Planned Unit Development. During the platting process the Community & Development Services Director may allow minor variations for the purpose of establishing:

1. Final road alignments
2. Final configuration of lot and tract sizes and shapes
3. Final building envelopes
4. Final access and parking locations
5. Landscape adjustments"

12. Applicability Statement (to be included on the first page of Zoning Exhibit):

"Except as expressly provided otherwise on this Rezone Exhibit, development of this property shall conform to the Elbert County Zoning Regulations in effect at the time of final plat recordation."

13. North Arrow and Scale -- North arrows shall be indicated on the Rezoning Exhibit site plan and the location map. In addition, the scale shall be indicated and a bar scale provided for the site plan.
14. Existing zoning, land uses, and owner's name and addresses shall be indicated for adjacent properties.



15. Existing easements shall be shown on the site plan with reception # and book and page reference, their use, and whether or not the easement will remain on the subject property.
 16. All existing structures on the subject property shall be shown with setbacks from the property line with a note indicating as to whether or not the structures will remain on the subject property.
 17. Topography of the site shall be shown at ten (10) foot contour intervals. Areas of twenty percent (20%) slope or greater shall be noted.
 18. Access to the site from a dedicated County right-of-way shall be shown graphically. Internal vehicular and pedestrian circulation shall be shown with right-of-way and trail widths indicated.
 19. All natural and man-made water courses, detention areas, streams/creeks, and lakes shall be shown. Any 100-year flood plains affecting the property shall be indicated.
 20. All adjacent land owned by the applicant or owned by an entity that the applicant is a party to, that is not a part of the application, shall be noted and a note indicating the current and intended use of the land shall be included.
 21. No-build areas that restrict building in hazardous areas shall be indicated.
 22. Significant treed areas on the subject property shall be indicated.
- f. Proof of Water – A written statement shall be provided from an existing water district or proof that an adequate water supply is dedicated for the proposed uses that meet all County and State requirements.
- g. Proof of Sanitary Sewer – A written statement shall be provided from an existing sanitary sewer provider or proof that an adequate system will be developed for sanitary sewer treatment that meets all Elbert County Environmental Health Department, Elbert County Engineer, and State requirements. Proposed individual Septic Provisions must meet the recommendations of the Elbert County Master Plan.
- h. Drainage Report – At a minimum, a Phase I Drainage Report, in compliance with the Elbert County Construction Standards and Specifications Manual shall be submitted, if the County Engineer deems the report necessary.
- i. Geologic Report – If the subject property is located within an area that contains expansive soils or other geologic hazards, a geologic report may be required by the County Engineer or Colorado Geologic Survey.



- j. Traffic Study – A traffic study may be required for developments, subject to determination by the Elbert County Road & Bridge Department or the County Engineer.
- k. Additional Requirements – In certain circumstances, additional information may be necessary to fully evaluate the rezoning request. The applicant will be informed of any additional requirements during the review process.

No hearing dates will be scheduled for an applicant if it is discovered that fees or taxes are owed to the County or to a County contracted reviewing agency during review of the application. Any fees or taxes owed by the applicant, or by an LLC the applicant is a party to, must be paid in full before hearing dates will be scheduled.

General Considerations for Every Application

In addition to the specific minimum design standards set forth herein, and as discussed in the Elbert County Master Plan, all applications will be reviewed based on over-arching considerations as to suitability and supportability in the communities/areas where the application is proposed. For example:

1. Is the application suitable for the community/area in which it is proposed?

In reviewing how the application will impact the community/area in which it is proposed the general types of issues to be considered include, for example:

- Density
- Lot Size
- Perimeter Lots
- Population
- Water use
- Water/Sewer
- Open Space
- Agricultural lands



2. Does the community/area in which the application is proposed have the resources to support it?

In reviewing whether the community/area has the necessary resources and infrastructure to support the application, the general types of issues to be considered include, for example:

- Schools
- Roads
- Law Enforcement
- Animal Control
- Fire Protection
- Ambulance Services
- Library Services
- Social Services

GENERAL REZONING APPROVAL STANDARDS

The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Planned Unit Development applications:

1. Whether the proposed rezoning complies with the goals and policies of the Elbert County Master Plan.
 2. Whether the proposed rezoning is compatible with surrounding land uses.
 3. Whether the proposed rezoning would adversely impact the provision of public services.
 4. Whether the proposed rezoning would adversely impact the environment.
 5. Whether the proposed rezoning would create traffic congestion or burden the existing road system.
 6. Whether the proposed rezoning will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.
3. Notice of Hearing
 - a. Publication
At least thirty (30) days prior to a public hearing before the Planning Commission, notice of hearing shall be published in a newspaper of general circulation in Elbert County at least once. Publication of said notices shall be the responsibility of the applicant and shall read as follows:..



"NOTICE OF PUBLIC HEARING"

"Rezoning from ___ to ___"

"Notice is hereby given that on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M./P.M.), or as soon as possible thereafter, a Planning Commission Hearing will be conducted and on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M.), or as soon as possible thereafter, a Board of County Commissioners hearing will be conducted. Hearings will be conducted in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado or at such other time and place as these hearings may be adjourned. Public hearings will be heard upon the application on file with the Elbert County Community and Development Services, 215 Comanche (Courthouse Annex), Kiowa, Colorado, 303-621-3136, by _____ (name of applicant), for a change in zoning pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately _____ (distance and direction from nearest major intersection)."

Reason: _____

Project Name and Number: _____

Legal Description of Property: _____

Date of Application: _____

Published In: _____ (name of newspaper)

_____ (date of Publication)

*Publishers affidavit verifying the above publication shall be submitted to Community and Development Services at least five (5) working days prior to the public hearing.

b. Sign Posting

The applicant shall also be required to post notice on the property for which the rezoning is requested at least thirty (30) days prior to the day of the public hearing before the Planning Commission. Such notice shall consist of at least one (1) sign facing parallel to each adjacent road right-of-way. Such sign(s) shall measure not less than four feet by four feet (4' x 4'); size of letters shall be a minimum of three inches (3") high and such signs shall be erected no further than ten feet (10') beyond the edge of the adjacent right-of-way on posts which shall locate the bottom of the sign no less than three feet (3') above the ground. All signs shall be clearly legible to persons on the adjacent right-of-way and shall be completed and installed in a neat and professional manner. All signs shall be visible and legible throughout the entire period, and shall read as follows:



"NOTICE OF PUBLIC HEARING"

"Rezoning from _____ to _____."

"Notice is hereby given that the property upon which this sign is posted shall be considered for a change in zoning from _____ to _____ pursuant to the current Elbert County Zoning Regulations. Further information may be obtained by calling Community and Development Services 303-621-3136. The Planning Commission hearing is to be held on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M./P.M.), or as soon as possible thereafter, and a Board of County Commissioners hearing will be conducted and on _____ (day of week), _____ (month) _____ (time), or as soon as possible thereafter. Said hearings are to be held in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado."

Name of Proposal: _____

Further requirements include:

- 1) Notarized affidavit verifying the date of the sign posting required at least thirty (30) days prior to the hearing date.
- 2) This affidavit must be submitted to Community and Development Services at least twenty-four (24) days prior to the Public Hearing date.
- 3) All signs must remain on the property until the final hearing, and must be removed no later than seven (7) days following the final hearing.
- 4) Signs advertising the rezoning of property in Elbert County must be photographed and submitted for the applicant's file in Community and Development Services as per the following form:



(ATTACH PHOTO HERE)

The above sign was posted on _____, pursuant to the current Elbert
County Zoning Regulations by _____ (name of applicant).

Project Name and Number: _____
Signature of Applicant/Representative: _____
Signed and sworn before me this date: _____

NOTARIZED BY:

Project Review:

- c. Notification of Adjacent Property Owners
At least thirty (30) days prior to the day of the Public Hearing before the Planning Commission, the applicant shall mail a notice of said hearing by Certified Mail, Return Receipt Requested, to owners of property adjacent to and within thirteen hundred twenty feet (1320') of the property under consideration for the rezoning and to the mineral right's owners and lessees and easement holders, as shown in the records of the Office of the Elbert County Assessor. When owners of property adjacent to and within thirteen hundred twenty feet (1320') of the property under consideration for rezoning are related to, or a business associate of the applicant, the applicant shall then notify by return, receipt mail all property owners in closest proximity north and south and east and west that are not related to, or a business associate of, the applicant.



- 1) At least twenty-four (24) days prior to the date of the Public Hearing before the Planning Commission, the applicant shall submit to Community and Development Services the following: The white postal receipts for Certified Mail mailed to the adjacent property owners and the property owners within thirteen hundred twenty feet (1320') of the proposed site as required by these Rezoning Procedures and Requirements; a copy of the note mailed to said property owners; A list, in alphabetical order, of the adjacent property owners and a map illustrating the location and proximity of the adjacent property owners and property owners within thirteen hundred twenty feet (1320') of the proposed site.
- 2) At least five (5) working days prior to the date of the Public Hearing before the Planning Commission, the applicant shall submit to Community and Development Services, the green postal Domestic Return Receipts mailed to the adjacent property owners and property owners within thirteen hundred twenty feet (1320') of the proposed site as required by these Rezoning Procedures and Requirements.

C. A-1 REZONING PROCEDURE (Exemptions from the Regular Rezoning Process)

1. Required Submittal Information for A-1 Rezoning: Applicants shall provide such information as deemed necessary by Community and Development Services. Such information shall include, but not be limited to:
 - a. Proof of ownership: Copy of deed, title policy or other sufficient information.
 - b. Comment on the adequacy of emergency access from the fire district: May be a letter from the appropriate fire district acknowledging the access.
 - c. Proof of a weed control and grazing plan: May be addressed in the Covenants or submitted separately to Community and Development Services.
 - d. A road permit will be required for any Rezoning which creates two (2) or more parcels accessing the same drive. The road permit procedures will be followed as provided by the Elbert County Road and Bridge Department.
 - e. A Land Survey Plat submitted in accord with the rezoning Plan Exhibit requirements in Part I, Section 6, B, 1, b, 4) of the Elbert County Zoning Regulations. Signatures shall be provided prior to recordation.
 - f. Fee: See current fee schedule.
 - g. A rezone narrative submitted in accord with the rezoning narrative requirements in Part I, Section 6, B) of these Regulations.
2. Criteria for Approving or Disapproving A and A-1 Rezoning Developments: Community and Development Services shall make written recommendations and findings of fact as to the consistency of the application with A or A-1 rezoning procedures as documented in the Elbert County Zoning Regulations. The applicant may respond to such recommendations and findings.

The Planning Commission, at a duly noticed public hearing, shall consider the recommendations of Community and Development Services in their review of the application.

3. Procedure:

- a. Formal submittal to Community and Development Services, including completed application form, appropriate supplemental information and fee.
- b. Community and Development Services Staff shall review the proposal within five (5) working days to determine the completeness of the application.
- c. At least fourteen (14) days prior to a public hearing before the Planning Commission and Board of County Commissioners, notice of hearing shall be published in a newspaper of general circulation in Elbert County at least once. Publication of said notice shall be the responsibility of the applicant and shall read as follows:

"NOTICE OF PUBLIC HEARING"

"Rezoning from ____ to ____."

"Notice is hereby given that a Planning Commission Hearing will be conducted on _____ (day of week), _____ (month) _____ (time), or as soon as possible thereafter, and a Board of County Commissioners hearing will be conducted and on _____ (day of week), _____ (month) _____ (time), or as soon as possible thereafter, in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado, or at such other time and place as these hearings may be adjourned. Public hearings will be heard upon the application on file with the Elbert County Community and Development Services, 215 Comanche, Courthouse, Kiowa, Colorado, 303-621-3136, by _____ (name of applicant), for A or A-1 rezoning pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately _____ (distance and direction from nearest major intersection) ."

Reason: _____

Project Name and Number: _____

Legal Description of Property: _____

Date of Application: _____

Published In: _____ (name of newspaper),
_____ (date of Publication).

*Publishers affidavit verifying the above publication shall be submitted to Community and Development Services at least five (5) working days prior to the public hearing.

- d. The applicant shall mail a written notice of said hearing by certified mail, return receipt requested, at least fourteen (14) days prior to the hearing date before the Planning Commission, to the adjoining property owners of the property for which an A to A-1 rezoning has been requested. The names and addresses for those properties affected shall be obtained from the current records of the Elbert County Assessor's Office.

e.

- 1) At least five (5) working days prior to the date of the public hearing before the Planning Commission, the applicant shall submit to Community and Development Services, the following: The white postal receipts for Certified Mail mailed to the adjacent property owners of the proposed site as required by these A or A-1 rezoning procedures and requirements; a copy of the notice mailed to said property owners; a list, in alphabetical order, of the adjacent property owners of the proposed site and a map illustrating the location and proximity of the adjacent property owners. When a notice is mailed to a property owner at an address other than the property adjoining or adjacent to the A-1 development, the applicant shall match notification with lot and block number, legal description or other manner which clearly locates the notified parties.
- 2) The day of the Public Hearing before the Planning Commission, the applicant shall submit to Community and Development Services, the green postal Domestic Return Receipts mailed to the adjacent property owners of the proposed site as required by these A or A-1 rezoning procedures and requirements.

- f. Community and Development Services may require additional public notice prior to any determination by the Planning Commission, in a manner consistent with the laws of the State of Colorado, which may include posting of the property. Such notice shall be posted fourteen (14) days prior to the day of the public hearing before the Planning Commission. Such notice shall consist of at least one (1) sign facing parallel to each adjacent road right-of-way. Such sign(s) shall measure not less than four feet by four feet (4' x 4'); size of letters shall be a minimum of three (3) inches high and such signs shall be erected no further than ten (10) feet beyond the edge of the adjacent right-of-way on posts which shall locate the bottom of the sign no less than three (3) feet above the ground. All signs shall be clearly legible to the persons on the adjacent right-of-way and shall be completed and installed in a neat professional manner. All signs shall be visible and legible throughout the entire period and shall read as follows:

"NOTICE OF PUBLIC HEARING"

"Rezoning from _____ to _____."

"Notice is hereby given that the property upon which this sign is posted shall be considered for a change in zoning from _____ to _____ pursuant to the current Elbert County Zoning Regulations. Further information may be obtained by calling Community and Development Services 621-3136. The Planning Commission hearing is to be held on _____ (day of week), _____ (month) _____ (year), at _____ (time A.M./P.M.), or as soon as possible thereafter, and a Board of County Commissioners hearing will be conducted and on _____ (day of week), _____ (month) _____ (year), or as soon as possible thereafter. Said hearings are to be held in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado."

Name of Proposal: _____



Further requirements include:

- 1) Notarized affidavit verifying the date of the sign posting required the day of the hearing.
- 2) Signs advertising the A-1 rezoning property in Elbert County must be photographed and submitted for the applicant's file in Community and Development Services Offices. The following form shall be used:

(ATTACH PHOTO HERE)

The above sign was posted on _____, pursuant to the current Elbert
County Zoning Regulations by _____ (name of applicant).

Project Name and Number: _____

Signature of Applicant/Representative: _____

Signed and sworn before me this date: _____

NOTARIZED BY:

Project Review: _____

4. Following approval by the Board of County Commissioners, the applicant will submit the rezoning exhibit to the Elbert County Clerk and Recorder's Office for recordation.



D. A AND A-1 ZONE DISTRICT ADMINISTRATIVE LOT LINE ADJUSTMENT PROCESS

The following administrative process will be used for a lot line adjustment where both of the properties are either zoned A and/or A-1 and where both property owners are agreeable to the lot line adjustment affecting both of their properties and where no change in zoning will take place:

1. The Board of County Commissioners will delegate the review and approval of lot line adjustments for properties in the A and/or A-1 zoning districts to an administrative process to be conducted within Community and Development Services.
2. The following specific conditions must be met in order to apply for an administrative lot line adjustment process:
 - a. Both properties are zoned A and/or A-1.
 - b. Both property owners are agreeable to the lot line adjustment affecting both of their properties.
 - c. No change in zoning will take place on either property.
3. The applicant will be responsible for the following documentation and fees.
 - a. Completed Land Use Application for applicable sections, signed by both property owners.
 - b. Narrative which contains:
 - description of the lot line adjustment
 - reason for the lot line adjustment
 - proof of ownership
 - c. Site Plan - prepared according to the rezoning exhibit standards.
 - d. Fee - see current fee schedule.
4. The Elbert County Administrative Hearing Officer will make a determination on the request for an Administrative Lot Line Adjustment after review of submitted documentation and determination of completeness at an Administrative Hearing conducted by Community and Development Services.
5. The applicant will record the Site Plan with the Elbert County Clerk and Recorder within thirty (30) days of Administrative Lot Line Adjustment approval.



Part I

Section 7

Enforcement of the Zoning Regulations



PART I, SECTION 7: ENFORCEMENT OF THE ZONING REGULATIONS

A. INTENT

The Elbert County Zoning Regulations shall be enforced by the Elbert County Community and Development Services Director and his authorized representative(s) on all matters involving these Regulations. The Community and Development Services Director shall consult with the County Attorney and Building Official and other affected County offices concerned with, but not limited to, the unlawful erection, construction, altering, occupancy or use of any building or structure or land in the unincorporated areas of the County.

B. INSPECTIONS

The Community and Development Services Director and/or Building Official and their authorized representative(s), are hereby empowered to enter and inspect any building, structure or tract of land in the unincorporated area of the county. When a violation is alleged, the Community and Development Services Director and/or Building Official shall compile, or cause to be compiled, relevant evidence of the alleged violation. Whenever the Community and Development Services Director or Building Official has personal knowledge of any violation hereof, one shall give written notice to the violator to correct such violations.

After appropriate notice(s) has (have) been served by the Community and Development Services Director and/or Building Official, the Community and Development Services Director shall then forward the file, or copy thereof, to the County Attorney for further action. The Community and Development Services Director shall be advised of any actions taken. Any action brought to remedy or prosecute a violation shall be brought in the name of the Board of County Commissioners of Elbert County, Colorado or the People of the State of Colorado. The Board of County Commissioners may authorize the Building Department to withhold issuance of building permits where a violation is found to exist pursuant to CRS, 1973, 30-28-114, as amended.

C. BUILDING PERMITS

It shall be unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure, including surface and subsurface structures, or to move a structure from one property to another within the unincorporated areas of Elbert County without first obtaining a building permit from the County Building Official or his authorized representative.

The County Building Department shall not issue any building permit unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conforms to all applicable provisions of these regulations and the Uniform Building Code.

All building permits shall be issued in conformance with the provisions of the Elbert County Zoning Regulations and the Uniform Building Code and shall be valid for a period of time not exceeding one (1) year from the date issued.

D. ZONING INSPECTION

The Community and Development Services Director shall assign the responsibilities for zoning inspections to one or more members of his staff who shall be able to respond to zoning complaints and make regular inspections of properties in Elbert County. The procedure for responding to zoning complaints and processing by the Community and Development Services Director shall be developed by Community and Development Services and then reviewed and approved by the County Attorney.

E. LIABILITY

The Community and Development Services Director and/or Building Official or their authorized representative(s) charged with the enforcement of this code, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may occur to persons or property as a result of any act or by reason of an act or omission in the discharge of his duties. Any suit brought against the Community and Development Services Director and/or Building Official or employee because of such act or omission performed by him in the enforcement of any provision of this code shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

This code shall not be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the regulation enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this regulation or any certificates of inspection issued under this regulation.



Part I

Section 8

Fee Structure for Land Use Applications



PART I, SECTION 8: FEE STRUCTURE FOR LAND USE APPLICATIONS

A. INTENT

The fees noted below are designed to cover anticipated costs incurred by the County in the review and processing of Land Use applications submitted for consideration.

B. PAYMENT

All fees are payable to the Elbert County Treasurer by cash, check or money order.

C. CONDITIONS

1. The Board of County Commissioners reserves the right to adjust the fees noted whenever, in its opinion, it is necessary to accomplish a change, subject to public notice of any such change.
2. All fees paid are non-refundable, with the exception of those requests which are withdrawn or terminated by the applicant, in writing, prior to the scheduling of the formal application to be heard before the Planning Commission or Board of Adjustments.
3. The fees indicated in this fee schedule shall be paid by all applicants with the exception of Elbert County departments or agencies. The Board of County Commissioners shall determine other exceptions on a case-by-case basis, upon written request of the applicant and submitted through Community and Development Services.
4. Under no circumstance, except as above noted, will any Land Use Application be receipted for processing without the appropriate fee(s) being paid when fees are required. In the event such checks are returned for insufficient funds, there will be an additional charge required before continuing the processing (see current fee schedule).
5. A complete Fee Schedule related to development within the County is posted in Community and Development Services. Appropriate county officials will review fee adequacy at six (6) month intervals and present fee adjustment recommendations to the Board of County Commissioners for modification and adoption by resolution. The fee schedule may include, but not necessarily be limited to the following: an effective date, residential rezoning, non-residential rezoning, concept plan, preliminary plat/residential, preliminary plat/non-residential, final plat, vacation(s), special use review, variance procedure, minor development plat, recorded plat amendments and adjustments, administrative adjustments, interpretations of uses not itemized, sign permits, substitution of original improvement security, mineral exploration permits, recording of modified County Regulations, review of other governmental agencies, impact fees, temporary structure/office permits, building permits, inspections, certificates of occupancy, reviews, bonding, etc. All fees will be set at a level to recover costs incurred by the County to accommodate development. Determination of costs will include, but not be limited to: personnel, benefits, administration, equipment, expert consultation, contracted services, mileage, inspections, etc.



6. The County may solicit expert consultation for complex technical issues. The applicant will be advised of estimated costs regarding independent technical services and consultation, and will provide written agreement for County reimbursement or withdraw the application. Such costs will be paid in full by the applicant at the time of application submittal. The applicant will provide the Community and Development Services Director a signed and dated Application Agreement Form.



Part II

Section 1

General Requirements and Exceptions



PART II, SECTION 1: GENERAL REQUIREMENTS AND EXCEPTIONS

A. INTENT

General requirements and exceptions shall provide for special case considerations applicable to these regulations.

B. MINIMUM AREA AND WIDTH OF LOTS

1. No part of the area or width of a lot required for the purpose of complying with the provisions of these regulations shall be included as part of the area or width required for another lot.
2. The minimum area and width limitations in these regulations shall not apply to utility service facilities. Area and width limitations for major facilities of a public utility shall be addressed in the Use by Special Review procedure contained in Part II, Section 18, of these Regulations.

C. MINIMUM YARDS

1. Cornices, canopies, eaves, fireplaces, wing walls or similar architectural features may extend into a required yard not more than three (3) feet.
2. Fire escapes may extend into a required yard not more than six (6) feet.
3. Open, unenclosed uncovered porches at ground level may extend into a required front or rear yard set back not more than six feet (6'). All side yard requirements must be met.
4. Open unenclosed, uncovered, patios, decks and porches greater than four (4) feet above ground level shall not extend into a required front or rear yard set back more than three (3) feet. All side yard requirements must be met.
5. The side yard along the street side of a reverse corner lot shall be not less than the front yard requirements for the district in which the lot is located.
6. No part of a yard required for a building for the purpose of complying with the provisions of these regulations shall be included as part of a yard of another building.
7. For the purpose of these regulations, the minimum yard along all Federal, State and major County arterial highways shall not be less than one hundred (100) feet or one hundred fifty (150) feet from centerline, whichever is greater, as approved by the County. Where this requirement may conflict with a yard otherwise in a district, the larger yard shall be required.
8. Minimum lot and yard standards are not to be applied to utility service facilities or to major facilities of a public utility.

D. MAXIMUM HEIGHT OF BUILDINGS

1. The height limitations of these regulations shall not apply to church spires, belfries, cupolas, penthouses or domes not used for human occupancy, to chimneys ventilators, skylights, water tanks, silos, parapet walls, cornices without windows, antennas, utility poles and necessary mechanical appurtenances usually carried above the roof level.
2. It shall be unlawful to construct, build, establish or continue to maintain any building, tree, smoke stack, chimney, flag pole, wires, tower or other structure or appurtenance thereto which may constitute a hazard or obstruction to the safe navigation, landing and takeoff of air craft at a publicly used airport under the regulations of the appropriate United States Civil Aeronautics Authority.
3. All dwellings and structures shall be constructed in accordance with all applicable County regulations and the Uniform Building Code.
4. Underground housing may be allowed subject to meeting all applicable County regulations and site plan approval. No underground construction shall be allowed to encroach within designated easements or required setbacks from adjoining property lines without County approval.

E. FENCES, HEDGES AND WALLS

The fence, hedge and wall limitations contained in the regulations shall not apply to utility service facilities where a higher fence, hedge or wall is required for reasons of safety or screening. Fence, hedge or wall requirements for major facilities of a public utility shall be addressed in the Use by Special Review procedure within these regulations.

F. MINIMUM LIVING AREAS

Minimum living areas within residential zoning areas shall be as follows:

- | | | |
|----|--------------------------|------------------|
| 1. | In single family zones | 700 square feet. |
| 2. | In multiple family zones | 450 square feet. |